

## BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BUSHKA	) APPEAL NO. 07-A-2656
GREGORY J. REV. TRUST DTD AND SHELDON	) FINAL DECISION
SUSAN J. REV. TRUST DTD from the decision of	) AND ORDER
the Board of Equalization of Valley County for tax	)
year 2007.	)

### RESIDENTIAL PROPERTY APPEAL

THIS MATTER was conducted "On the Record" - in written form. Board Members Lyle R. Cobbs, Linda S. Pike and David E. Kinghorn participated in this decision. Appellant Bushka, Gregory J. Rev. Trust DTD and Sheldon, Susan J. Rev. Trust DTD submitted information for consideration. Respondent Valley County also submitted information for consideration. This appeal is taken from a decision of the Valley County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RPM04880040040A.

**The issue on appeal is the market value of residential property.**

**The decision of the Valley County Board of Equalization is reversed.**

### FINDINGS OF FACT

The assessed land value is \$125,850, and the improvements' valuation is \$257,410, totaling \$383,260. Appellant requests the total market value be reduced to \$375,000.

The subject property is .30 acres improved with a single level, 1,652 square foot residence and a 700 square foot attached garage. It is located in McCall, Idaho.

Appellants asserted that the property assessment for the 2007 tax year placed the market value of subject property too high. Appellants submitted seven sold properties as exhibits, but stated that only three were actually comparable. The three properties Appellants considered comparable all had the same floor plan as subject. One of the properties was new on the market as of December 2007 and has yet to be sold, with a listing price of \$339,000. The other two

properties have sold. One sale took place in October 2007 for \$340,000 and the other sold in March 2006 for \$380,000. Four sales were submitted by Appellants, but not considered comparable to subject. These properties sold between June 2006 and December 2007, and ranged in sale price between \$315,000 and \$493,500.

Appellants also reported subject had been listed on the market between May and September 2006 and no offers were received. The listing price was not submitted. Appellant was told by a realtor that property in the subject's neighborhood was selling at a maximum value of \$375,000.

The Assessor pointed out several reasons why Appellants' sales could not be considered. Of the three properties introduced as comparables to subject two were unusable because one was a listing, not a sale, and the other sold in 2007 and will therefore be used in the 2008 sales analysis. The property that sold in March 2006, for \$380,000, was considered by the County to be a good comparable sale. It is a good grade home with 1,955 square feet and a 544 square foot attached garage. Of the four properties Appellants presented but did not consider to be comparable, one was accepted by County as comparable. This property sold in April 2006 for \$390,000. It is located on Saari drive and is classified as a good grade home. According to the Assessor the residence is 1,546 square with a 440 square foot attached garage. However Appellants asserted that the property is actually 2,000 to 2,200 square feet. Appellants stated that there appears to be a second floor located over the garage, giving this property square footage that subject does not have. Of the remaining three properties presented by Appellants two exceed the January 1, 2007 lien date and will be considered in the 2008 assessment study, the third sale, the residence is considered better quality than subject and is outside the value range of subject.

The County introduced five sale properties which were compared to subject. The properties were all considered in average condition and classified as good grade homes. They sold between November 10, 2005 and September 27, 2006. The size of the sale properties ranged from 1,300 to 1,886 square feet and the sale prices ranged from \$310,000 to \$395,000. Appellants asserted two of the above properties were not comparable to subject. One is only 1,300 square feet, too small to be compared to subject, and the other is 1,886 square feet, too large to be compared to subject.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Both parties presented numerous sales to support the value claims.

Idaho is a market value state for property tax purposes. The statutes describe market value. The sales included in the market value analysis must be timely, to reflect market value at a specific time.

#### **Idaho Code § 63-201. Definitions --**

(10) "Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

**Idaho Code § 63-205. Assessment – Market value for assessment purposes** (1) All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 a.m. of the first day of January in the year in which such property taxes are levied, except as otherwise provided. Market value for assessment purposes shall be determined according to the requirements of this title or the rules promulgated by the state tax commission.

January 1, 2007 would have been the applicable lien date for the assessment of subject property. Sales that took place after January 1 would not be considered in the assessment, because they had not taken place. Likewise, 2005 sales may be too dated, particularly in this case, where the sale dates are so important.

In this case, the Board will consider only the sales which took place during 2006. Those sales would include one of the Appellants' sales and the three 2006 County sales. These sales indicate a reduction in the assessed value of subject is warranted.

Therefore, the decision of the Valley County Board of Equalization is reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed lowering the assessed value to \$375,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

**MAILED MARCH 20, 2008**